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Chief Clerk of the House

By: Robert R. Puente

H.B. No. 79

A BILL TO BE ENTITLED

AN ACT

relating to water conservation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private

1 lands to benefit the water in the state, as defined by Section
2 26.001.

3 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended
4 by adding Section 1.004 to read as follows:

5 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

6 (a) The legislature finds that voluntary land stewardship enhances
7 the efficiency and effectiveness of this state's watersheds by
8 helping to increase surface water and groundwater supplies,
9 resulting in a benefit to the natural resources of this state and to
10 the general public. It is therefore the policy of this state to
11 encourage voluntary land stewardship as a significant water
12 management tool by providing assistance to landowners to conduct
13 those activities.

14 (b) "Land stewardship," as used in this code, is the
15 voluntary practice of managing land to conserve or enhance suitable
16 landscapes and the ecosystem values of the land. Land stewardship
17 includes land and habitat management, wildlife conservation, and
18 watershed protection. Land stewardship practices include runoff
19 reduction, prescribed burning, managed grazing, brush management,
20 erosion management, reseeding with native plant species, riparian
21 management and restoration, and spring and creek-bank protection,
22 all of which benefit the water resources of this state.

23 SECTION 3. Section 11.002, Water Code, is amended by adding
24 Subdivision (15) to read as follows:

25 (15) "Best management practices" means those
26 voluntary efficiency measures developed by the commission and the
27 board that save a quantifiable amount of water, either directly or

1 indirectly, and that can be implemented within a specified time
2 frame.

3 SECTION 4. Subsection (b), Section 11.0235, Water Code, is
4 amended to read as follows:

5 (b) Maintaining the biological soundness of the state's
6 rivers, lakes, bays, and estuaries is of great importance to the
7 public's economic health and general well-being. The legislature
8 encourages voluntary water and land stewardship to benefit the
9 water in the state, as defined by Section 26.001.

10 SECTION 5. Subchapter E, Chapter 13, Water Code, is amended
11 by adding Section 13.146 to read as follows:

12 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
13 require a retail public utility that provides potable water service
14 to a population of 3,300 or more to submit to the executive
15 administrator of the board a water conservation plan based on
16 specific targets and goals developed by the retail public utility
17 and using appropriate best management practices, as defined by
18 Section 11.002, or other water conservation strategies. For
19 purposes of this section, the population served by a retail public
20 utility shall be determined on the basis of the population
21 estimates contained in the most recent regional water plan adopted
22 for the regional water planning area in which the retail public
23 utility's service area is located.

24 SECTION 6. Section 13.502, Water Code, is amended by adding
25 Subsections (f) through (i) to read as follows:

26 (f) Before the executive director may approve a request to
27 change from submetered billing to allocated billing under

1 Subsection (e), the property owner or manager must submit
2 documentation to the commission in support of the request as
3 provided by Subsection (i). The executive director shall assign
4 commission staff who are knowledgeable in water billing issues to
5 review the documentation and make a recommendation to the executive
6 director concerning whether to approve or disapprove the request.
7 In reviewing the documentation, the staff shall consider whether
8 needed repairs or problems are routine in nature or are
9 extraordinary and constitute good cause for the billing change.
10 The executive director may not approve the request unless the
11 property owner or manager demonstrates that all reasonable steps
12 were taken to ensure the proper installation and maintenance of the
13 submetering system and that the circumstances reasonably justify
14 the billing change.

15 (g) The commission by rule shall require a property owner or
16 manager requesting a billing change under Subsection (e) to provide
17 timely notice to affected tenants of the request. The notice must
18 include information relating to the manner in which a tenant may
19 comment to the commission on the request.

20 (h) If the executive director does not approve a request for
21 a billing change under Subsection (e), the executive director shall
22 provide to the property owner or manager an explanation of why the
23 request was disapproved. Disapproval of a request does not
24 preclude a property owner or manager from submitting subsequent
25 requests.

26 (i) A property owner or manager who submits a request for a
27 billing change under Subsection (e) must submit with the request

1 any relevant and detailed information necessary to support the
2 request, including:

3 (1) if the request is based on equipment failures:

4 (A) at least one independent itemized bid
5 indicating the number of submeters that are malfunctioning or that
6 need to be replaced and the cost of the equipment and labor to
7 replace the submeters;

8 (B) copies of any relevant repair or service
9 invoices during the previous 12 months; and

10 (C) an explanation of why the equipment failed
11 before the end of the equipment's expected useful life, if
12 applicable; and

13 (2) if the request is based on meter reading or billing
14 problems:

15 (A) copies of any resident complaints, any
16 correspondence with billing companies, and any correspondence from
17 the commission regarding consumer complaints directly attributable
18 to billing company problems; and

19 (B) an affidavit by the property owner or manager
20 regarding efforts to find alternative service providers that
21 includes an explanation of why alternative providers could not be
22 used.

23 SECTION 7. Subsection (b), Section 15.102, Water Code, is
24 amended to read as follows:

25 (b) The loan fund may also be used by the board to provide:

26 (1) grants or loans for projects that include
27 supplying water and wastewater services in economically distressed

1 areas or nonborder colonias as provided by legislative
2 appropriations, this chapter, and board rules, including projects
3 involving retail distribution of those services; and

4 (2) grants for:

5 (A) projects for which federal grant funds are
6 placed in the loan fund;

7 (B) projects, on specific legislative
8 appropriation for those projects; or

9 (C) water conservation, desalination, brush
10 control, weather modification, regionalization, and projects
11 providing regional water quality enhancement services as defined by
12 board rule, including regional conveyance systems.

13 SECTION 8. Chapter 16, Water Code, is amended by adding
14 Subchapter K to read as follows:

15 SUBCHAPTER K. WATER CONSERVATION

16 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
17 PROGRAM. (a) The executive administrator shall develop and
18 implement a statewide water conservation public awareness program
19 to educate residents of this state about water conservation. The
20 program shall take into account the differences in water
21 conservation needs of various geographic regions of the state and
22 shall be designed to complement and support existing local and
23 regional water conservation programs.

24 (b) The executive administrator is required to develop and
25 implement the program required by Subsection (a) in a state fiscal
26 biennium only if the legislature appropriates sufficient money in
27 that biennium specifically for that purpose.

1 Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each
2 entity that is required to submit a water conservation plan to the
3 commission under this code shall submit a copy of the plan to the
4 executive administrator.

5 (b) Each entity that is required to submit a water
6 conservation plan to the executive administrator, board, or
7 commission under this code shall report annually to the executive
8 administrator on the entity's progress in implementing the plan.

9 (c) The executive administrator shall review each water
10 conservation plan and annual report to determine compliance with
11 the minimum requirements and submission deadlines developed under
12 Subsection (e).

13 (d) The board may notify the commission if the board
14 determines that an entity has violated this section or a rule
15 adopted under this section. Notwithstanding Section 7.051(b), a
16 violation of this section or of a rule adopted under this section is
17 enforceable in the manner provided by Chapter 7 for a violation of a
18 provision of this code within the commission's jurisdiction or of a
19 rule adopted by the commission under a provision of this code within
20 the commission's jurisdiction.

21 (e) The board and commission jointly shall adopt rules:

22 (1) identifying the minimum requirements and
23 submission deadlines for the water conservation plans described by
24 Subsection (b) and the annual reports required by that subsection;
25 and

26 (2) providing for the enforcement of this section and
27 rules adopted under this section.

1 SECTION 9. Section 17.125, Water Code, is amended by adding
2 Subsection (b-2) to read as follows:

3 (b-2) The board shall give priority to applications for
4 funds for implementation of water supply projects in the state
5 water plan by entities that:

6 (1) have already demonstrated significant water
7 conservation savings; or

8 (2) will achieve significant water conservation
9 savings by implementing the proposed project for which the
10 financial assistance is sought.

11 SECTION 10. Section 26.003, Water Code, is amended to read
12 as follows:

13 Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of
14 this state and the purpose of this subchapter to maintain the
15 quality of water in the state consistent with the public health and
16 enjoyment, the propagation and protection of terrestrial and
17 aquatic life, and the operation of existing industries, taking into
18 consideration the economic development of the state; to encourage
19 and promote the development and use of regional and areawide waste
20 collection, treatment, and disposal systems to serve the waste
21 disposal needs of the citizens of the state; to encourage the
22 voluntary stewardship of public and private lands to benefit the
23 water in the state; and to require the use of all reasonable methods
24 to implement this policy.

25 SECTION 11. Subchapter A, Chapter 2165, Government Code, is
26 amended by adding Section 2165.008 to read as follows:

27 Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE

1 BUILDINGS. (a) The commission may contract with a private vendor,
2 at no cost to the state, to install electronic water conservation
3 systems on toilets, sinks, and showers in state buildings.

4 (b) A private vendor contracting with the commission under
5 this section must:

6 (1) demonstrate that the electronic water
7 conservation systems used will yield an annual cost savings, as
8 verified by the Texas Water Development Board, of at least 50
9 percent of the amount of current plumbing operation costs;

10 (2) have a minimum of five years of verifiable
11 experience with retrofit installations in public buildings;

12 (3) use technological equipment that has a five-year
13 history of use in public buildings;

14 (4) have demonstrable experience with the use and
15 reuse of gray water; and

16 (5) have demonstrable experience with the use of
17 rainwater harvesting.

18 (c) A contract between the commission and a private vendor
19 under this section must include a provision that will ensure a
20 budget-neutral or positive fiscal impact on the state.

21 (d) The commission shall contract for the installation of
22 the conservation systems in at least 15 state buildings designated
23 by the commission. In designating a state building under this
24 subsection, the commission shall consider:

25 (1) the building where the greatest amount of savings
26 can be achieved;

27 (2) the age of the building; and

1 (3) the potential operational and security concerns of
2 the building.

3 (e) A private vendor that contracts with the commission
4 under this section may not receive any remuneration under the
5 contract until cost savings to the state have been verified by the
6 Texas Water Development Board.

7 (f) Not later than December 31, 2006, the commission shall
8 submit a progress report to the lieutenant governor, the speaker of
9 the house of representatives, and the Legislative Budget Board.
10 The report must include an evaluation of the initial installation
11 of the water conservation systems, the effectiveness of the
12 technology used, and the amount of cost savings to the state. The
13 commission may request assistance from the state auditor and the
14 Legislative Budget Board with the preparation of the report and the
15 calculation of savings.

16 SECTION 12. Chapter 401, Local Government Code, is amended
17 by adding Section 401.006 to read as follows:

18 Sec. 401.006. IRRIGATION SYSTEMS. (a) A municipality with
19 a population of 5,000 or more by ordinance shall require an
20 installer of an irrigation system:

21 (1) to hold a license issued under Section 1903.251,
22 Occupations Code; and

23 (2) to obtain a permit before installing a system
24 within the territorial limits or extraterritorial jurisdiction of
25 the municipality.

26 (b) The ordinance shall include minimum standards and
27 specifications for designing, installing, and operating irrigation

1 systems in accordance with Section 1903.053, Occupations Code, and
2 any rules adopted by the Texas Commission on Environmental Quality
3 under that section.

4 (c) A municipality may employ or contract with a licensed
5 plumbing inspector or a licensed irrigator to enforce the
6 ordinance.

7 (d) This section does not apply to an on-site sewage
8 disposal system, as defined by Section 366.002, Health and Safety
9 Code.

10 SECTION 13. Subsection (b), Section 1903.053, Occupations
11 Code, is amended to read as follows:

12 (b) The commission shall ~~may~~ adopt:

13 (1) standards relating to:

14 (A) the design, installation, and operation of
15 ~~for~~ irrigation systems;

16 (B) ~~[that include]~~ water conservation; and

17 (C) the duties and responsibilities of licensed
18 irrigators; and

19 (2) rules that provide for effective enforcement of
20 those standards~~[, irrigation system design and installation, and~~
21 ~~compliance with municipal codes]~~.

22 SECTION 14. (a) Section 13.502, Water Code, as amended by
23 this Act, applies to a request to change from submetered billing to
24 allocated billing for which the Texas Commission on Environmental
25 Quality has not issued a final decision before the effective date of
26 this Act.

27 (b) Sections 15.102 and 17.125, Water Code, as amended by

1 this Act, apply only to an application for financial assistance
2 filed with the Texas Water Development Board on or after the
3 effective date of this Act. An application for financial assistance
4 filed before the effective date of this Act is governed by the law
5 in effect on the date the application was filed, and the former law
6 is continued in effect for that purpose.

7 SECTION 15. (a) Not later than December 1, 2005, the Texas
8 Building and Procurement Commission shall submit a request for
9 proposals from private vendors to provide water conservation
10 systems under Section 2165.008, Government Code, as added by this
11 Act.

12 (b) The initial installation of the water conservation
13 systems described by Subsection (a) of this section shall begin not
14 later than February 1, 2006, and shall be completed by January 1,
15 2008.

16 SECTION 16. (a) Not later than January 1, 2007, a
17 municipality with a population of 5,000 or more shall adopt an
18 ordinance under Section 401.006, Local Government Code, as added by
19 this Act.

20 (b) Not later than June 1, 2006, the Texas Commission on
21 Environmental Quality shall adopt rules as required by Section
22 1903.053, Occupations Code, as amended by this Act, to take effect
23 January 1, 2007.

24 SECTION 17. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

1 effect, this Act takes effect November 1, 2005.

HOUSE COMMITTEE REPORT

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HOUSE OF REPRESENTATIVES

By: Puente

H.B. No. 79

A BILL TO BE ENTITLED

AN ACT

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1.003, Water Code, is amended to read as follows:

Sec. 1.003. PUBLIC POLICY. It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

(1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;

(2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;

(3) the reclamation and drainage of the state's overflowed land and other land needing drainage;

(4) the conservation and development of its forest, water, and hydroelectric power;

(5) the navigation of the state's inland and coastal waters; ~~and~~

(6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources; and

(7) the voluntary stewardship of public and private

1 lands to benefit the water in the state, as defined by Section
2 26.001.

3 SECTION 2. Subchapter A, Chapter 1, Water Code, is amended
4 by adding Section 1.004 to read as follows:

5 Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP.

6 (a) The legislature finds that voluntary land stewardship enhances
7 the efficiency and effectiveness of this state's watersheds by
8 helping to increase surface water and groundwater supplies,
9 resulting in a benefit to the natural resources of this state and to
10 the general public. It is therefore the policy of this state to
11 encourage voluntary land stewardship as a significant water
12 management tool by providing assistance to landowners to conduct
13 those activities.

14 (b) "Land stewardship," as used in this code, is the
15 voluntary practice of managing land to conserve or enhance suitable
16 landscapes and the ecosystem values of the land. Land stewardship
17 includes land and habitat management, wildlife conservation, and
18 watershed protection. Land stewardship practices include runoff
19 reduction, prescribed burning, managed grazing, brush management,
20 erosion management, reseeding with native plant species, riparian
21 management and restoration, and spring and creek-bank protection,
22 all of which benefit the water resources of this state.

23 SECTION 3. Section 11.002, Water Code, is amended by adding
24 Subdivision (15) to read as follows:

25 (15) "Best management practices" means those
26 voluntary efficiency measures developed by the commission and the
27 board that save a quantifiable amount of water, either directly or

1 indirectly, and that can be implemented within a specified time
2 frame.

3 SECTION 4. Subsection (b), Section 11.0235, Water Code, is
4 amended to read as follows:

5 (b) Maintaining the biological soundness of the state's
6 rivers, lakes, bays, and estuaries is of great importance to the
7 public's economic health and general well-being. The legislature
8 encourages voluntary water and land stewardship to benefit the
9 water in the state, as defined by Section 26.001.

10 SECTION 5. Subchapter E, Chapter 13, Water Code, is amended
11 by adding Section 13.146 to read as follows:

12 Sec. 13.146. WATER CONSERVATION PLAN. The commission shall
13 require a retail public utility that provides potable water service
14 to a population of 3,300 or more to submit to the executive
15 administrator of the board a water conservation plan based on
16 specific targets and goals developed by the retail public utility
17 and using appropriate best management practices, as defined by
18 Section 11.002, or other water conservation strategies. For
19 purposes of this section, the population served by a retail public
20 utility shall be determined on the basis of the population
21 estimates contained in the most recent regional water plan adopted
22 for the regional water planning area in which the retail public
23 utility's service area is located.

24 SECTION 6. Section 13.502, Water Code, is amended by adding
25 Subsections (f) through (i) to read as follows:

26 (f) Before the executive director may approve a request to
27 change from submetered billing to allocated billing under

1 Subsection (e), the property owner or manager must submit
2 documentation to the commission in support of the request as
3 provided by Subsection (i). The executive director shall assign
4 commission staff who are knowledgeable in water billing issues to
5 review the documentation and make a recommendation to the executive
6 director concerning whether to approve or disapprove the request.
7 In reviewing the documentation, the staff shall consider whether
8 needed repairs or problems are routine in nature or are
9 extraordinary and constitute good cause for the billing change.
10 The executive director may not approve the request unless the
11 property owner or manager demonstrates that all reasonable steps
12 were taken to ensure the proper installation and maintenance of the
13 submetering system and that the circumstances reasonably justify
14 the billing change.

15 (g) The commission by rule shall require a property owner or
16 manager requesting a billing change under Subsection (e) to provide
17 timely notice to affected tenants of the request. The notice must
18 include information relating to the manner in which a tenant may
19 comment to the commission on the request.

20 (h) If the executive director does not approve a request for
21 a billing change under Subsection (e), the executive director shall
22 provide to the property owner or manager an explanation of why the
23 request was disapproved. Disapproval of a request does not
24 preclude a property owner or manager from submitting subsequent
25 requests.

26 (i) A property owner or manager who submits a request for a
27 billing change under Subsection (e) must submit with the request

1 any relevant and detailed information necessary to support the
2 request, including:

3 (1) if the request is based on equipment failures:

4 (A) at least one independent itemized bid
5 indicating the number of submeters that are malfunctioning or that
6 need to be replaced and the cost of the equipment and labor to
7 replace the submeters;

8 (B) copies of any relevant repair or service
9 invoices during the previous 12 months; and

10 (C) an explanation of why the equipment failed
11 before the end of the equipment's expected useful life, if
12 applicable; and

13 (2) if the request is based on meter reading or billing
14 problems:

15 (A) copies of any resident complaints, any
16 correspondence with billing companies, and any correspondence from
17 the commission regarding consumer complaints directly attributable
18 to billing company problems; and

19 (B) an affidavit by the property owner or manager
20 regarding efforts to find alternative service providers that
21 includes an explanation of why alternative providers could not be
22 used.

23 SECTION 7. Subsection (b), Section 15.102, Water Code, is
24 amended to read as follows:

25 (b) The loan fund may also be used by the board to provide:

26 (1) grants or loans for projects that include
27 supplying water and wastewater services in economically distressed

1 areas or nonborder colonias as provided by legislative
2 appropriations, this chapter, and board rules, including projects
3 involving retail distribution of those services; and

4 (2) grants for:

5 (A) projects for which federal grant funds are
6 placed in the loan fund;

7 (B) projects, on specific legislative
8 appropriation for those projects; or

9 (C) water conservation, desalination, brush
10 control, weather modification, regionalization, and projects
11 providing regional water quality enhancement services as defined by
12 board rule, including regional conveyance systems.

13 SECTION 8. Chapter 16, Water Code, is amended by adding
14 Subchapter K to read as follows:

15 SUBCHAPTER K. WATER CONSERVATION

16 Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS
17 PROGRAM. (a) The executive administrator shall develop and
18 implement a statewide water conservation public awareness program
19 to educate residents of this state about water conservation. The
20 program shall take into account the differences in water
21 conservation needs of various geographic regions of the state and
22 shall be designed to complement and support existing local and
23 regional water conservation programs.

24 (b) The executive administrator is required to develop and
25 implement the program required by Subsection (a) in a state fiscal
26 biennium only if the legislature appropriates sufficient money in
27 that biennium specifically for that purpose.

1 Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Each
2 entity that is required to submit a water conservation plan to the
3 commission under this code shall submit a copy of the plan to the
4 executive administrator.

5 (b) Each entity that is required to submit a water
6 conservation plan to the executive administrator, board, or
7 commission under this code shall report annually to the executive
8 administrator on the entity's progress in implementing the plan.

9 (c) The executive administrator shall review each water
10 conservation plan and annual report to determine compliance with
11 the minimum requirements and submission deadlines developed under
12 Subsection (e).

13 (d) The board may notify the commission if the board
14 determines that an entity has violated this section or a rule
15 adopted under this section. Notwithstanding Section 7.051(b), a
16 violation of this section or of a rule adopted under this section is
17 enforceable in the manner provided by Chapter 7 for a violation of a
18 provision of this code within the commission's jurisdiction or of a
19 rule adopted by the commission under a provision of this code within
20 the commission's jurisdiction.

21 (e) The board and commission jointly shall adopt rules:

22 (1) identifying the minimum requirements and
23 submission deadlines for the water conservation plans described by
24 Subsection (b) and the annual reports required by that subsection;
25 and

26 (2) providing for the enforcement of this section and
27 rules adopted under this section.

SECTION 9. Section 17.125, Water Code, is amended by adding Subsection (b-2) to read as follows:

(b-2) The board shall give priority to applications for funds for implementation of water supply projects in the state water plan by entities that:

(1) have already demonstrated significant water conservation savings; or

(2) will achieve significant water conservation savings by implementing the proposed project for which the financial assistance is sought.

SECTION 10. Section 26.003, Water Code, is amended to read as follows:

Sec. 26.003. POLICY OF THIS SUBCHAPTER. It is the policy of this state and the purpose of this subchapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, and the operation of existing industries, taking into consideration the economic development of the state; to encourage and promote the development and use of regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; to encourage the voluntary stewardship of public and private lands to benefit the water in the state; and to require the use of all reasonable methods to implement this policy.

SECTION 11. Subchapter A, Chapter 2165, Government Code, is amended by adding Section 2165.008 to read as follows:

Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE

1 BUILDINGS. (a) The commission may contract with a private vendor,
2 at no cost to the state, to install electronic water conservation
3 systems on toilets, sinks, and showers in state buildings.

4 (b) A private vendor contracting with the commission under
5 this section must:

6 (1) demonstrate that the electronic water
7 conservation systems used will yield an annual cost savings, as
8 verified by the Texas Water Development Board, of at least 50
9 percent of the amount of current plumbing operation costs;

10 (2) have a minimum of five years of verifiable
11 experience with retrofit installations in public buildings;

12 (3) use technological equipment that has a five-year
13 history of use in public buildings;

14 (4) have demonstrable experience with the use and
15 reuse of gray water; and

16 (5) have demonstrable experience with the use of
17 rainwater harvesting.

18 (c) A contract between the commission and a private vendor
19 under this section must include a provision that will ensure a
20 budget-neutral or positive fiscal impact on the state.

21 (d) The commission shall contract for the installation of
22 the conservation systems in at least 15 state buildings designated
23 by the commission. In designating a state building under this
24 subsection, the commission shall consider:

25 (1) the building where the greatest amount of savings
26 can be achieved;

27 (2) the age of the building; and

1 (3) the potential operational and security concerns of
2 the building.

3 (e) A private vendor that contracts with the commission
4 under this section may not receive any remuneration under the
5 contract until cost savings to the state have been verified by the
6 Texas Water Development Board.

7 (f) Not later than December 31, 2006, the commission shall
8 submit a progress report to the lieutenant governor, the speaker of
9 the house of representatives, and the Legislative Budget Board.
10 The report must include an evaluation of the initial installation
11 of the water conservation systems, the effectiveness of the
12 technology used, and the amount of cost savings to the state. The
13 commission may request assistance from the state auditor and the
14 Legislative Budget Board with the preparation of the report and the
15 calculation of savings.

16 SECTION 12. Chapter 401, Local Government Code, is amended
17 by adding Section 401.006 to read as follows:

18 Sec. 401.006. IRRIGATION SYSTEMS. (a) A municipality with
19 a population of 5,000 or more by ordinance shall require an
20 installer of an irrigation system:

21 (1) to hold a license issued under Section 1903.251,
22 Occupations Code; and

23 (2) to obtain a permit before installing a system
24 within the territorial limits or extraterritorial jurisdiction of
25 the municipality.

26 (b) The ordinance shall include minimum standards and
27 specifications for designing, installing, and operating irrigation

1 systems in accordance with Section 1903.053, Occupations Code, and
2 any rules adopted by the Texas Commission on Environmental Quality
3 under that section.

4 (c) A municipality may employ or contract with a licensed
5 plumbing inspector or a licensed irrigator to enforce the
6 ordinance.

7 (d) This section does not apply to an on-site sewage
8 disposal system, as defined by Section 366.002, Health and Safety
9 Code.

10 SECTION 13. Subsection (b), Section 1903.053, Occupations
11 Code, is amended to read as follows:

12 (b) The commission shall ~~may~~ adopt:

13 (1) standards relating to:

14 (A) the design, installation, and operation of
15 ~~for~~ irrigation systems;

16 (B) ~~[that include]~~ water conservation; and

17 (C) the duties and responsibilities of licensed
18 irrigators; and

19 (2) rules that provide for effective enforcement of
20 those standards~~[, irrigation system design and installation, and~~
21 ~~compliance with municipal codes]~~.

22 SECTION 14. (a) Section 13.502, Water Code, as amended by
23 this Act, applies to a request to change from submetered billing to
24 allocated billing for which the Texas Commission on Environmental
25 Quality has not issued a final decision before the effective date of
26 this Act.

27 (b) Sections 15.102 and 17.125, Water Code, as amended by

1 this Act, apply only to an application for financial assistance
2 filed with the Texas Water Development Board on or after the
3 effective date of this Act. An application for financial assistance
4 filed before the effective date of this Act is governed by the law
5 in effect on the date the application was filed, and the former law
6 is continued in effect for that purpose.

7 SECTION 15. (a) Not later than December 1, 2005, the Texas
8 Building and Procurement Commission shall submit a request for
9 proposals from private vendors to provide water conservation
10 systems under Section 2165.008, Government Code, as added by this
11 Act.

12 (b) The initial installation of the water conservation
13 systems described by Subsection (a) of this section shall begin not
14 later than February 1, 2006, and shall be completed by January 1,
15 2008.

16 SECTION 16. (a) Not later than January 1, 2007, a
17 municipality with a population of 5,000 or more shall adopt an
18 ordinance under Section 401.006, Local Government Code, as added by
19 this Act.

20 (b) Not later than June 1, 2006, the Texas Commission on
21 Environmental Quality shall adopt rules as required by Section
22 1903.053, Occupations Code, as amended by this Act, to take effect
23 January 1, 2007.

24 SECTION 17. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect November 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

7/6/05
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES
to whom was referred HB 79 have had the same under consideration and beg to report
back with the recommendation that it

☒ do pass, without amendment.
☐ do pass, with amendment(s).
☐ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

☒ yes ☐ no A fiscal note was requested.
☐ yes ☒ no A criminal justice policy impact statement was requested.
☐ yes ☒ no An equalized educational funding impact statement was requested.
☐ yes ☒ no An actuarial analysis was requested.
☐ yes ☒ no A water development policy impact statement was requested.
☐ yes ☒ no A tax equity note was requested.
☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Puente, Chair	X			
Callegari, Vice-chair		X		
Bonnen	X			
Campbell	X			
Geren	X			
Hardcastle	X			
Hilderbran	X			
Hope				X
Laney				X

Total

6 aye
1 nay
0 present, not voting
2 absent

Al H. H. H.
CHAIR

BILL ANALYSIS

H.B. 79
By: Puente
Natural Resources
Committee Report (Unamended)

BACKGROUND AND PURPOSE

HB 79 is comprised of the water conservation language from SB 3 as it passed out of the House Natural Resources Committee during the 79th regular session. It includes findings, policy, and recommendations by the Water Conservation Implementation Task Force and the Texas Wildlife Association.

These findings, policy, and recommendations include voluntary land stewardship of public and private land; best management practices for voluntary water conservation measures; requirements for the submission of water conservation plans for public utilities that service over 3,300 in population with a plan review by the Texas Commission on Environmental Quality and the Texas Water Development Board (TWDB); the ability of the TWDB to use funds in the Water Loan Assistance Fund for water conservation; the development of a statewide water conservation public awareness program; water conservation systems for state-owned buildings; and requirements for a municipality with a population over 5,000 to require irrigation systems to meet certain design specifications to ensure water conservation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 6, SECTION 8, and SECTION 13 and to the Texas Water Development Board in SECTION 8 of this bill.

ANALYSIS

SECTION 1. Amends Section 1.003, Water Code, to provide that it is the public policy of the state to provide for the conservation and development of the state's natural resources, including the voluntary stewardship of public and private lands to benefit the water in the state, as defined by Section 26.001 (Definitions).

SECTION 2. Amends Subchapter A, Chapter 1, Water Code, by adding Section 1.004, as follows:

Sec. 1.004. FINDINGS AND POLICY REGARDING LAND STEWARDSHIP. (a) Provides that the legislature finds that voluntary land stewardship enhances the efficiency and effectiveness of this state's watersheds by helping to increase surface water and groundwater supplies, resulting in a benefit to the natural resources of this state and to the general public. Provides that it is therefore the policy of this state to encourage voluntary land stewardship as a significant water management tool by providing assistance to landowners to conduct those activities.

(b) Defines "land stewardship." Sets forth certain practices which are defined as land stewardship practices.

SECTION 3. Amends Section 11.002, Water Code, to define "best management practices."

SECTION 4. Amends Section 11.0235, Water Code, to provide that the legislature encourages voluntary water and land stewardship to benefit the water in the state, as defined by Section 26.001.

SECTION 5. Amends Subchapter E, Chapter 13, Water Code, by adding Section 13.146, as follows:

Sec. 13.146. WATER CONSERVATION PLAN. Requires the Texas Commission on Environmental Quality (TCEQ) to require a retail public utility that provides potable water service to a population of 3,300 or more to submit to the executive administrator (executive administrator) of the Texas Water Development Board (board) a water conservation plan based on specific targets and goals developed by the retail public utility and using appropriate best management practices, as defined by Section 11.002 (Definitions), or other water conservation strategies. Requires the population served by a retail public utility, for purposes of this section, to be determined on the basis of the population estimates contained in the most recent regional water plan adopted for the regional water planning area in which the retail public utility's service area is located.

SECTION 6. Amends Section 13.502, Water Code, by adding Subsections (f) through (i), as follows:

(f) Requires the property owner or manager, before the executive director of TCEQ (executive director) may approve a request to change from submetered billing to allocated billing under Subsection (e), to submit documentation to TCEQ in support of the request as provided by Subsection (i). Requires the executive director to assign TCEQ staff who are knowledgeable in water billing issues to review the documentation and make a recommendation to the executive director concerning whether to approve or disapprove the request. Requires the staff, in reviewing the documentation, to consider whether needed repairs or problems are routine in nature or are extraordinary and constitute good cause for the billing change. Prohibits the executive director from approving the request unless the property owner or manager demonstrates that all reasonable steps were taken to ensure the proper installation and maintenance of the submetering system and that the circumstances reasonably justify the billing change.

(g) Requires TCEQ by rule to require a property owner or manager requesting a billing change under Subsection (e) to provide timely notice to affected tenants of the request. Requires the notice to include information relating to the manner in which a tenant may comment to TCEQ on request.

(h) Requires the executive director, if the executive director does not approve a request for a billing change under Subsection (e), to provide to the property owner or manager an explanation of why the request was disapproved. Provides that disapproval of a request does not preclude a property owner or manager from submitting subsequent requests.

(i) Requires a property owner or manager who submits a request for a billing change under Subsection (e) to submit with the request certain relevant and detailed information necessary to support the request.

SECTION 7. Amends Section 15.102(b), Water Code, to authorize the water loan assistance fund to also be used by the board to provide grants for water conservation.

SECTION 8. Amends Chapter 16, Water Code, by adding Subchapter K, as follows:

SUBCHAPTER K. WATER CONSERVATION

Sec. 16.401. STATEWIDE WATER CONSERVATION PUBLIC AWARENESS PROGRAM. Requires the executive administrator to develop and implement a statewide water conservation public awareness program to educate residents of this state about water conservation. Requires the program to take into account the differences in water conservation needs of various geographic regions of the state and to be designed to complement and support existing local and regional water conservation programs.

(b) Provides that the executive administrator is required to develop and implement the program required by Subsection (a) in a state fiscal biennium only

if the legislature appropriates sufficient money in that biennium specifically for that purpose.

Sec. 16.402. WATER CONSERVATION PLAN REVIEW. (a) Requires each entity that is required to submit a water conservation plan to TCEQ under this code to submit a copy of the plan to the executive administrator.

(b) Requires each entity that is required to submit a water conservation plan to the executive administrator, the board, or TCEQ under this code to report annually to the executive administrator on the entity's progress in implementing the plan.

(c) Requires the executive administrator to review each water conservation plan and annual report to determine compliance with the minimum requirements and submission deadlines developed under Subsection (e).

(d) Authorizes the board to notify TCEQ if the board determines that an entity has violated this section or a rule adopted under this section. Provides that notwithstanding Subsection 7.051(b), a violation of this section or of a rule adopted under this section is enforceable in the manner provided by Chapter 7 for a violation of a provision of this code within the TCEQ's jurisdiction or of a rule adopted by TCEQ under a provision of this code within TCEQ's jurisdiction.

(e) Requires the board and TCEQ jointly to adopt certain rules.

SECTION 9. Amends Section 17.125, Water Code, by adding Subsection (b-2), to require the board to give priority to applications for funds for implementation of water supply projects in the state water plan by certain entities.

SECTION 10. Amends Section 26.003, Water Code, to provide that it is the policy of this state and the purpose of this subchapter to encourage the voluntary stewardship of public and private lands to benefit the water in the state.

SECTION 11. Amends Subchapter A, Chapter 2165, Government Code, by adding Section 2165.008, as follows:

Sec. 2165.008. WATER CONSERVATION SYSTEMS FOR STATE BUILDINGS. (a) Authorizes the Texas Building and Procurement Commission (TBPC) to contract with a private vendor, at no cost to the state, to install electronic water conservation systems on toilets, sinks, and showers in state buildings.

(b) Requires a private vendor contracting with TBPC under this section to meet certain criteria.

(c) Requires a contract between TBPC and a private vendor under this section to include a provision that will ensure a budget-neutral or positive fiscal impact on the state.

(d) Requires TBPC to contract for the installation of the conservation systems in at least 15 state buildings designated by the commission. Requires TBPC to take certain considerations into account in designating a state building under this subsection.

(e) Prohibits a private vendor that contracts with the commission under this section from receiving any remuneration under the contract until cost savings to the state have been verified by the board.

(f) Requires TBPC, not later than December 31, 2006, to submit a progress report to the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board (LBB). Requires the report to include an evaluation of the initial installation of the water conservation systems, the effectiveness of the

technology used, and the amount of cost savings to the state. Authorizes TBPC to request assistance from the state auditor and the LBB with the preparation of the report and the calculation of savings.

SECTION 12. Amends Chapter 401, Local Government Code, by adding Section 401.006, as follows:

Sec. 401.006. IRRIGATION SYSTEMS. (a) Requires a municipality with a population of 5,000 or more by ordinance to require an installer of an irrigation system to meet certain criteria.

(b) Requires the ordinance to include minimum standards and specifications for designing, installing, and operating irrigation systems in accordance with Section 1903.053, Occupations Code, and any rules adopted by TCEQ under that section.

(c) Authorizes a municipality to employ or contract with a licensed plumbing inspector or a licensed irrigator to enforce the ordinance.

(d) Provides that this section does not apply to an on-site sewage disposal system, as defined by Section 366.002, Health and Safety Code.

SECTION 13. Amends Section 1903.053(b), Occupations Code, to require, rather than authorize, TCEQ to adopt certain rules and standards.

SECTION 14. (a) Provides that Section 13.502, Water Code, as amended by this Act, applies to a request to change from submetered billing to allocated billing for which TCEQ has not issued a final decision before the effective date of this Act.

(b) Makes application of Sections 15.102 and 17.125, Water Code, as amended by this Act, prospective.

SECTION 15. (a) Requires TBPC, not later than December 1, 2005, to submit a request for proposals from private vendors to provide water conservation systems under Section 2165.008, Government Code, as added by this Act.

(b) Requires the installation of the water conservation systems described by Subsection (a) of this section to begin not later than February 1, 2006, and to be completed by January 1, 2008.

SECTION 16. (a) Requires a municipality with a population of 5,000 or more, not later than January 1, 2007, to adopt an ordinance under Section 401.006, Local Government Code, as added by this Act.

(b) Requires TCEQ, not later than June 1, 2006, to adopt rules as required by Section 1903.053, Occupations Code, as amended by this Act, to take effect January 1, 2007.

SECTION 17. Effective date: upon passage or November 1, 2005.

EFFECTIVE DATE

Upon passage or November 1, 2005.

SUMMARY OF COMMITTEE ACTION

HB 79

July 6, 2005

upon final adjourn./recess

Considered in formal meeting

Reported favorably without amendment(s)

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATURE 1st CALLED SESSION - 2005

July 5, 2005

TO: Honorable Robert Puente, Chair, House Committee on Natural Resources

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: HB79 by Puente (Relating to water conservation.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would mandate that the Texas Commission on Environmental Quality (TCEQ) require the submission of water conservation plans to the Texas Water Development Board (TWDB) by retail public utilities that provide water service to a population of 3,300 or more. The bill would also make changes to statute regarding the TCEQ's review of requests by property owners and managers to change from submetered to allocated billing. The bill would allow the TWDB to provide grants for water conservation projects and require the TWDB to develop and implement a statewide water conservation public awareness campaign if funds are appropriated for that purpose. The bill would require the TWDB to give priority to applications for funds for implementation of water supply projects to the state water plan by entities that have demonstrated significant water conservation savings or who will achieve savings for which the financial assistance is sought.

The bill would allow the Texas Building & Procurement Commission to contract with a private vendor to install water conserving plumbing fixtures in state buildings and would create certain requirements for installers of irrigation systems of municipalities with a population of 5,000 or more. In addition, the bill would require the TCEQ to adopt standards relating to the design, installation, and operation of irrigation systems; the duties and responsibilities of licensed irrigators; and rules that provide for effective enforcement.

The bill would take effect immediately if it receives a vote of two-thirds of the members of each house. If it does not receive the required vote for immediate effect, it would take effect on November 1, 2005.

This estimate assumes that any additional costs to state agencies in implementing the provisions of the bill could be absorbed within existing budgets. This estimate assumes that no funds would be appropriated for the public awareness campaign operated by the TWDB. If the Legislature chose to appropriate funds for this purpose the cost could be significant. If the program were to be on the scale of the "Don't Mess With Texas" campaign operated by the Department of Transportation, it is estimated that such an outreach program could cost between \$5.8 million and \$9.9 million per fiscal year.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 303 Building and Procurement Commission, 308 State Auditor's Office, 580 Water Development Board, 582 Commission on Environmental Quality

LBB Staff: JOB, SR, WP, WK, TL

H.B. No. 79

By Puente

A BILL TO BE ENTITLED
AN ACT

relating to water conservation.

JUN 29 2005 Filed with the Chief Clerk

JUL 05 2005 Read first time and referred to Committee on Natural Resources

JUL 06 2005 Reported favorably (~~unfavorably~~)
(~~no action taken~~)

JUL 13 2005 Sent to Committee on (Calendars)
(~~General & Consistent Calendars~~)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)

05 JUL 12 PM 6:37

HOUSE OF REPRESENTATIVES